



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

JABBAR STRAWS,
Plaintiff,

vs.

JASON CRAWFORD, LEXINGTON
COUNTY SHERIFF'S DEPARTMENT,
JASON SHULER, and BATESBURG-
LEESVILLE POLICE DEPARTMENT,
Defendants.

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CIVIL ACTION NO. 4:06-3220-HFF-TER

ORDER

This case was filed pursuant to 42 U.S.C. § 1983. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendant Crawford's Motion to Dismiss or, in the alternative, Motion for Summary Judgment, be granted and this case be dismissed. The Report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on April 9, 2007, and the Clerk of Court received Plaintiff's objections on April 25, 2007. The Court has considered the objections, but finds them to be without merit. Hence, the Court will enter judgment accordingly.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court overrules Plaintiff's objections, adopts the Report to the extent that it does not contradict this Order, and incorporates it herein. Therefore, it is the judgment of this Court that Defendant Crawford's Motion to Dismiss or, in the alternative, Motion for Summary Judgment, be **GRANTED** and this case be **DISMISSED** as to Defendant Crawford.

The Court notes that the dispositive motions ruled on by the Court above were filed by just one of the defendants, Defendant Crawford. It might first appear, then, that the action should go forward against the remaining defendant, Defendant Shuler. The Court's review of the record, however, reveals that service was not effected on Defendant Shuler. Moreover, even if he had been served, it is patently obvious to this Court that he would raise the same defenses as Defendant Crawford has employed: statute of limitations and *Heck*. Therefore, having carefully considered the record and the relevant law, it is the judgment of the Court that the action be **DISMISSED** as to Defendant Shuler, as well.

Any remaining motions are rendered **MOOT**.

IT IS SO ORDERED.

Signed this 2nd day of May, 2007, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified of the right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.